

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

EDWARD FITZGERALD,

Plaintiff,

22-cv-6067 (FPG)

-against-

THE CITY OF ROCHESTER, ANDREW DELDUCA, BING REAVES, ANTHONY MAZURKIEWICZ, MICHAEL DIPAOLA, "JOHN DOE POLICE OFFICERS 1-200" (names and number of whom are unknown at present), COUNTY OF MONROE, TODD BAXTER, "RICHARD ROE SHERIFF'S DEPUTIES 1-200" (names and number of whom are unknown at present), and other unidentified members of the Rochester Police Department and Monroe County Sheriff's Office,

Defendants.

**MEMORANDUM OF LAW IN RESPONSE
TO THE COUNTY DEFENDANTS' MOTIONS TO DISMISS**

ARGUMENT

Because Body Worn Camera recordings produced by the City in response to Plaintiff's Freedom of Information Law Request show that the officers who attacked him and shot him in the face from close range were all Rochester Police Department officers, Plaintiff Edward Fitzgerald does not oppose the County defendants' motion to dismiss.

However, Mr. Fitzgerald respectfully requests that the dismissal be without prejudice, in the event that discovery reveals one or more of the County defendants contributed to the deprivation of Mr. Fitzgerald's rights as alleged in the FAC.

CONCLUSION

For the foregoing reasons, Plaintiff does not oppose the County's motion, other than requesting that the dismissal be without prejudice.

Dated: May 4, 2022
New York, New York

Respectfully Submitted,

BY: ~//s//~
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